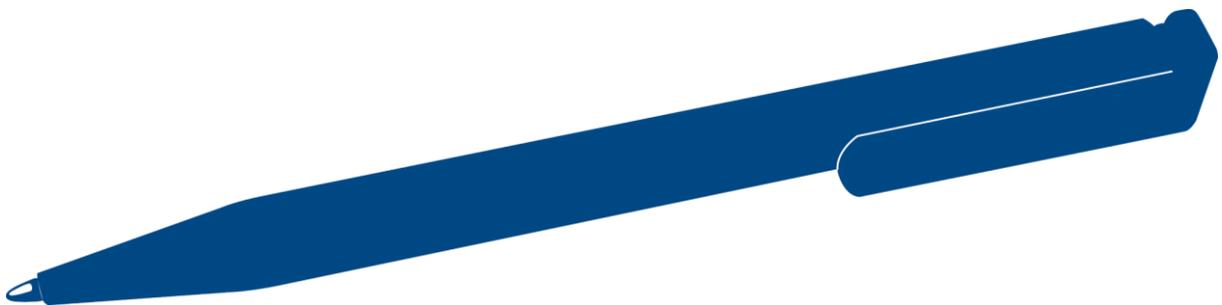


No Recourse to Public Funds (NRPF)

This **Research and Campaigns** report outlines experiences of CAL clients who cannot access public funds.



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Scope

CAL has provided advice to 383 clients on more complex immigration issues in the period between April 2019 to June 2020. Since restrictions were imposed due to Covid-19 and the suspension of face to face service, the service has advised 72 clients.

This is a report on the experiences at Citizens Advice Liverpool with clients who cannot access public funds, and especially how they have struggled during the Covid-19 crisis. We have extended beyond those to whom the term "No Recourse to Public Funds" strictly applies, as there are other categories for whom the consequences are much the same. We do not consider asylum-seekers in any depth as very few turn to us for help and other agencies are much better placed to report on them. We do not consider here the rights to Health Services or education.

Who does this affect?

There are a number of categories of migrants to the UK who cannot access some or any public funds.

No Recourse to Public Funds (NRPF) - a matter of immigration law

The term "NRPF" applies **only** to those migrants who have been granted Leave to Remain in the UK but have a condition placed on them by the Home Office that they must not access a list of welfare benefits and other services which are defined by the Home Office themselves as "Public Funds". Breach of the NRPF condition, even by just unsuccessfully attempting to claim a prohibited benefit, could lead to withdrawal of Leave to Remain or, at least, failure of future new immigration application.

This applies to a variety of types of "Leave to Remain/Enter" (commonly called "visas") including leave based on the Human Right to Private and Family life (for instance the right to live with their children or other family resident in the UK), spouses of British or settled people and to people with work, self-employment or study visas.

This definitive list of Public Funds includes all the main means-tested and disability and child benefits amongst others. This list is only of relevance to this category of people, i.e. with NRPF:

- attendance allowance
- carers allowance

- child benefit
- child tax credit
- council tax benefit
- council tax reduction
- disability living allowance
- housing and homelessness assistance
- housing benefit
- income-based jobseeker's allowance
- income related employment & support allowance
- income support
- personal independence payment
- severe disablement allowance
- social fund payment
- state pension credit
- universal credit
- working tax credit
- (from 6 April 2016) "discretionary support payments by local authorities which replace the discretionary social fund" (i.e. Liverpool Citizens Support Scheme - LCSS)

Without means-tested benefits, people are also denied other services or benefits that are normally "passported" by them, for instance free prescriptions, free school meals, help with funeral costs, maternity grants. People with NRPF are entitled to NI contribution-based benefits such as "new style" or "contribution-based" JSA/ESA or Bereavement Support Payments, or any other benefits or services not on the above list.

There was until very recently an exception by which someone with NRPF who had an EEA or UK family member could claim Child Benefit. This particularly helped NRPF families with a British child. However, this exception disappeared from the rules, at least in relation to families with a British child, from 12/06/2020.

Where one member of a couple has NRPF but the other is entitled to Universal Credit or income-based JSA /ESA, the claim must be a joint one, with any income of the NRPF member declared, but the benefit is calculated using a single person's allowance rather than the couple allowance. The presence of the person with NRPF in such a mixed couple must not result in the other claimant having an enhanced award. This leads to a particular problem with Housing Benefit for such mixed couples if their HB award is less than the maximum award. The amount is calculated for the couple and will be greater because of the presence of the NRPF member. This means in effect that such couples cannot claim Housing Benefit unless the award would be the maximum one

anyway for the non-NPRF member alone. (Thankfully, this problem does not exist for the Housing Element within Universal Credit.)

These people usually have the right to work (with any restrictions being stipulated on their BRP) and the right to rent privately. Students are restricted to 20 hours work in term time and unlimited hours outside term time or after their course ends up to the expiry of the visa.

In respect of social housing, note the prohibition is on housing **allocation**. Locally, this means registration with PropertyPool Plus. However, if someone with NPRF approaches a Housing association individually (not through PPP) and rents from them, this is not a breach of the NPRF condition.

Asylum-seekers

Someone who has come to the UK by whatever means, legal or irregular, and claimed asylum is termed an "asylum seeker" and is supported through NASS accommodation and a minimal allowance currently 35.75/week per person. They are not entitled to any welfare benefits but are entitled to some services, such as health and education for their children. They do not normally have the right to work, though this can be requested from the Home Office after one year, restricted to shortage occupations only.

Once someone has been granted asylum and is thereby declared by the Home Office to be a "refugee" they and their families have full rights to benefits and services exactly as a British national, even if the refugee Leave to Remain is the initial 5 years only.

People with no leave to remain in the UK or who cannot prove rights

This category includes those people who have entered the UK by irregular means, including trafficking, or have overstayed their Leave to Remain/Enter (or "visas"), even if this is accidentally or through mal-administration or due to some unexpected life event.

Even if such a person makes an application for Leave to Remain, or has an appeal pending over such an application, under welfare law, they have no entitlements to any benefits (whether or not on the above list) or even to basic accommodation or financial

support. However, if they try unsuccessfully to apply for such benefits or support, they are not in breach of any "Leave to Remain" (as they have no Leave). These people have no rights to work or to rent.

There is an additional group of people who, though they do have full rights to benefits, services, work and rent, cannot prove it to the satisfaction of benefits/housing agencies, landlords or employers. The most unjust and well-known of these is the issue of the Windrush generation who are being required to provide proof of rights that they have had for decades but they were not previously required to prove. Some of them have proof but not in the form accepted by employers or landlords who are wary of fines under the Home Office rules on employee and tenant checks. This also encompasses people such as refugees with ILR granted years ago, whose old paper-style Immigration Status Document (ISD) is sometimes wrongly rejected by employers (who demand a Biometric Residence Permit) despite the ISD being an acceptable form of proof. An application to have the ISD or other form of proof replaced with a BRP is costly and they often cannot afford it.

It is important to know that if someone makes a **new** application for Further or Indefinite Leave to Remain **before expiry of their old Leave** (or "visa") they do have continuing rights exactly as under their old visa until the Home Office makes a decision. We have clients whose benefits were wrongly stopped at the date of expiry of the old visa, both by DWP and by Liverpool City Council, even though there was a valid new application pending. Such clients sometimes have to wait many months for their benefit to be restored (especially where DWP is concerned) causing huge hardship and build-up of rent arrears and debt, though more recently we have found it much easier to have such decisions by LCC quickly corrected. Benefit agencies should check at the date of expiry whether a new application has been made. This can be done online with the Home Office, and LCC do not need to follow the DWP decision but can make this decision independently.

EEA nationals without Settled Status or Permanent Residence

The rules around benefit entitlement of nationals of EEA countries (EU plus Norway, Iceland and Liechtenstein) or Switzerland are very complex. However, the rules are those of Welfare Benefits law and are not directly immigration rules. Hence trying to claim a benefit they are not entitled to is not a breach of immigration law and the term

NRPF does not apply at all currently (at least until the end of the transition period 31/12/2020). The list of benefits above is not applicable.

People with Settled Status under the EU Settlement Scheme (EUSS) brought in with Brexit (actually a form of Indefinite Leave to Remain) have full rights to all benefits/housing and services and work exactly as a British national. This also applies to the end of this year to anyone with Permanent Residence (PR), whether or not they have a card to prove that PR, though in practice the PR card is usually needed to prove their rights. The term "Permanent Residence" will mislead many people as it will cease to have any significance at all after the end of the Transition Period 31/12/2020.

People with Pre-Settled status under EUSS also have full rights to rent privately and to work. Some of those with either Settled or Pre-Settled Status find it difficult to prove their status to small employers or landlords as they have no card to prove it. Proof is online only and is poorly understood by some people, especially those with low level of digital skills or access.

For those granted only Pre-Settled Status under the EUSS, (i.e. they have been in UK less than 5 years) and those who have not yet applied under EUSS and cannot prove PR, their entitlement to some benefits depends on proving "Habitual Residence" and part of that requires proof of "Right to Reside" (R2R). Confusingly, they may unquestionably have the right under immigration law to live in the UK, even proved by Pre-Settled Status, but, under Welfare law, they have no "Right to Reside". This term R2R means they are an EEA national "exercising their treaty rights" as workers, self-employed, job-seekers, students or self-sufficient or are family members of such people. There are very complex rules about the requirements to prove you have (or have retained) the status of "worker", "self-sufficient", etc... and who constitutes a family member or has "derived rights" through another person.

Different rules apply to different benefits and services and we will not detail them here. However, for EEA nationals without R2R there is no entitlement to the main means-tested benefits, including Housing Benefit and Council Tax Support, Liverpool Citizens Support Scheme or to housing allocation or homelessness support. For some other benefits there is a requirement to have lived in the UK for a certain period. When the main breadwinner is unable to work, such families can easily find themselves with no entitlement to any benefits or help with housing/homelessness or emergency funding.

They are entitled to NI contribution-based benefits such as new style or c-JSA and c-ESA if they have made enough contributions. They have the right to work and to rent privately.

Our experience from helping a huge number of EEA clients with their benefit and housing issues is that the vast majority who have been here for more than a marginal length of time do have a R2R as, contrary to populist belief, they come here to work. Also, there are many ways they can prove that right apart from the one usually quoted (work). These include through their past work, children, spouses, parents, etc.

The problem is the DWP's algorithm doesn't seem to be able to identify anything beyond the most straightforward worker, the most straightforward retained worker or their most straightforward family member (i.e. spouse) of the worker.

We are very successful in challenging decisions over the R2R but have seen very few cases where a person without help from us or a similar agency has managed to get the decision changed. Presumably there are many such EEA nationals and their families in the city who have not come to us and have had to accept a wrong decision.

Broadly, there are 3 categories of EEA nationals who struggle to prove they have R2R:

- A) People who really don't have a R2R, because they just arrived and they can't find a job, or because they never worked enough and there is nobody from whom they can derive the right. This can also be because they haven't done what is required to **retain** worker status (i.e. claimed benefit immediately on losing their work).
- B) People who have R2R or PR in theory, but it's virtually impossible to evidence e.g. because there is no paper trace of the work and earnings were not reported by the employer to HMRC, or doctors refuse to give backdated sick notes to show retained worker due to illness. Often client who are very ill with physical or mental issues are not in a state where they can accurately remember their work and sickness histories, let alone document them, making it almost impossible to help them establish their R2R. Adults who have lived in the UK since early childhood usually have PR based on their parents' work or claiming records from their childhood. This information and documentation is often very difficult to obtain especially if the parents are estranged from them or live in another part of the UK or abroad or are ill or have died.
- C) People who have R2R, but don't have access to adequate representation to argue their case to the DWP.

Unfortunately, we find that too often decisions by Liverpool City Council's Revenues and Benefits just follow the DWP decision, whereas they are allowed in law to make their own decision about the R2R.

Returning Residents

In fact, everyone is subject to the Habitual Residence Test when claiming benefits, including all British nationals. This is usually no problem. However, when British or "settled people" (with ILR or PR) return to the UK after a long period abroad they usually fail this test if they try to apply immediately for benefits (including Liverpool Citizens Support Scheme) or for social housing or homeless support. They are asked to prove that their permanent residence is now in the UK. The period of 3 months is often quoted as required to prove this. In fact, there is no specific period in law though usually after 1 to 3 months they pass the test.

What brings the clients to crisis?

In Citizens Advice Liverpool we advise many clients in the categories above. Those who are asylum-seekers, failed asylum seekers or those with asylum appeals are usually referred or signposted to other agencies more experienced in their situations and the solutions for them and they approach us for help quite rarely. We are more familiar with the life events that have brought the other categories to us. Many of these factors will be familiar to other agencies that work with disadvantaged people in the city.

For those who have been trafficked, or otherwise come to the UK through desperation, their need for support is obvious. However, even those who started their life in the UK with a means to support themselves can fall into crisis sparked by any of these among others:

- Redundancy
- Reduced or no hours on Zero hours contract
- Precarious gig-economy work
- Insecurity of employment in black economy
- Dismissal, with reduced rights to redress under employment law in recent years
- Sickness or disability or pregnancy of the worker (sometimes leading to dismissal)

- Sudden increase in care responsibilities, due to childbirth or health of dependants
- Separation of partners/spouses
- Domestic violence
- Estrangement of young adults from parents
- Lack of job opportunity on reaching adulthood
- Bereavement
- Mental health crisis
- Substance abuse/addiction

It is highly likely that the events relating to employment are more likely to impact the BAME community, especially if they have trouble convincing employers of their rights under immigration law, and discrimination is so hard to prove.

Domestic Violence/Abuse

The situation of those suffering Domestic Abuse who have no access to public funds is particularly dire. This usually applies to a person (usually, but not always, a woman) with a spouse/partner visa with NRPF, though it could equally apply to any of the above categories. If she flees the abusive spouse, she will have great difficulty finding even emergency accommodation. Most refuges are not able to provide accommodation unless the person can access Housing Benefit (or Housing Costs under Universal Credit). The person has no automatic entitlement to homelessness support, unless she has young children or is particularly vulnerable in another way. She has no entitlement to basic benefits. Many migrant wives and partners have limited English and few if any friends they can call on. There may be cultural reasons why they risk isolation from their community if they ask for help and they are afraid of going to the police as they fear deportation. Technically, they have breached the conditions of their spouse/partner visa when they left the relationship and they need urgent immigration advice, which is a scarce resource in this city due to the limited capacity of those few solicitors who can do this work. The work does attract Legal Aid however. An application can be made by an OISC Level 1 adviser for a Destitution Domestic Violence Concession, allowing them access to Public Funds for a short period while an application for ILR on grounds of DV is made, but this cannot be immediate, especially as it should not be made before we are sure legal advice will be available during the window it provides. If children are involved there can be referral to Children's Services.

The concern is: how many such victims do not flee their persecutors because they are aware of the additional difficulties they will face, over and above those of British or settled people in the same situation of domestic abuse?

How has the Covid19 crisis affected people without these rights?

It goes without saying that the Coronavirus crisis has increased the death rate and bereavement and massively increased the incidence of job loss, hours or pay reduction, sickness, mental health problems, domestic violence, separation, estrangement and substance abuse etc. In addition, there are the financial and social consequences of lockdown, self-isolation and shielding. The government has instituted a number of special measures to mitigate the financial consequences of these for the general population. Not everybody will qualify for these measures. However, those who do not qualify are expected to have the safety net of the normal welfare system, the main elements being Universal Credit and contributory benefits and local welfare assistance (LCSS). However, for the individuals and families that concern us, this safety net does not exist. Here are examples of how this can happen:

Statutory Sick Pay (SSP):

To qualify, the worker must earn at least the lower earnings limit - currently £120 per week. People in part-time, zero-hours or casual work may not meet this requirement. The self-employed are not entitled. Under Coronavirus provisions, those self-isolating or shielding can claim SSP, but not if they don't meet the contribution conditions.

Contributory or "New Style" JSA or ESA:

To qualify, the worker must have worked and paid National Insurance during the last 2 years and meet certain contribution conditions. Many of the migrants we meet have not worked long enough in the UK to meet these conditions. Although only the single person weekly allowance of £74.35 is payable, and will never support a family or cover

the rent, this could be important for people with NRPF under Coronavirus crisis but not for those who don't meet the contribution conditions.

Coronavirus Job Retention Scheme:

Furlough is at the discretion of employers. Many small businesses have just closed down and others have opted to make workers redundant instead of furlough.

Self-employed Income Support Scheme:

To qualify the person must have traded in the tax year 2018 to 2019 and submitted their Self- Assessment tax return on or before 23 April 2020 for that year. Many of the self-employed migrants we meet have not been trading in UK that long. Others struggle to understand the UK income tax system or use digital systems and have not submitted tax returns, especially if it is a small-scale and casual business.

Coronavirus Local Authority Discretionary Grants Fund:

To qualify the business must have relatively high ongoing fixed property-related costs and occupy property (or part of a property) with a rateable value or annual mortgage/rent payments below £51,000. We meet business-owning migrants who have no business property and work from home.

Coronavirus hardship fund payment to Local Authorities:

We understand this allocation is to be spent on additional help for Council Tax Support claimants and will not help anyone without entitlement to Council Tax Support as they have no rights to public funds.

Coronavirus Mortgage Payment Holidays:

This is of no help to tenants, which applies to most of the migrants we meet.

Complete ban on evictions and start of possession hearings for renters:

This is welcome but those who can no longer afford their rent will build up arrears and be liable for possession hearings once the ban is lifted.

Test and Trace Support payment

This £500 payment for workers or self-employed people forced to isolate to comply with an NHS Test and Trace notification, has been introduced from the end of September 2020. There is a condition that the person must be in receipt of a means-tested benefit, making it unavailable to people without access to public funds. As at the date of this version of this report, we have been informed of a possible discretionary fund but this is to be clarified.

Liverpool Citizen Support Scheme:

This is unavailable to all the categories listed above, and for those with NRPF, even unsuccessfully applying is technically a breach of their Leave to Remain.

Free School Meals:

These are not classed as Public Funds so are allowable under immigration law to people with NRPF. However, above Year 2, they are subject to the condition that the parent is in receipt of certain benefits. They are therefore not normally available to any of the categories above.

The one small Coronavirus concession made by government in respect of NRPF is that parents can exceptionally receive Free School Meal Vouchers without being in receipt of those benefits, but only if they fall into one of 4 subcategories:

- are reliant on section 4 support (failed asylum-seekers)
- have been granted leave to remain as 'Zambrano carers' (as carers of EEA/UK children under EEA law)
- have been granted leave to remain under Article 8 ECHR (Human Rights claims)
- are supported under section 17 Children Act 1989 and who have 'no recourse to public funds' (have been referred to Children's Services)

We have advised families with no access to public funds who do not come under any of these headings.

Applying for Change of Conditions:

We can help clients in the first (NRPF) category to apply to the Home Office for them to remove the NRPF condition. They have to show why their circumstances have changed from when they were granted Leave to Remain and the condition was first imposed. This can be done at OISC Level 1 of immigration advice. However very careful consideration has to be given as there could be unintended consequences. If the person at present is "on a 5-year route" to ILR, this will immediately be changed to a "10-year route" if the condition is lifted. This means they will have to wait an extra 5 years before apply for ILR. It is usually people on a 10-year route under Private and Family Life who are most likely to benefit. If someone is at present on a work or self-employment visa the request is likely to fail or, at least, it might jeopardise any application for further leave to remain as it may be taken to show they cannot support themselves in the UK.

During the Coronavirus crisis the government has been more willing than usual to grant this lifting of the NRPF condition, though we find considerable difficulties in making the applications due to language difficulties and remote working. It can be hard to access the clients' documentation or get the required information from them, especially if they have no tablet or laptop and rely on a mobile phone. They often have no charge or credit on the phone or no internet connection or do not understand how to use email fully, for instance attaching photos to messages. It is difficult to instruct them remotely on the technology, which we would normally do in order to empower them for the future.

Summary

The cases where people slip through one or all of these safety nets must be common, especially given the precarious types of employment typical for many recent migrants. They are then in a desperate situation where food vouchers or parcels may be their only lifeline. With no money to top-up meters they may be unable to cook the contents of the food parcel, unable to give their children adequate nutrition or clothe them properly. Their children may have no access to education with perhaps one smart phone for a family and no laptop or tablet or internet access and lack of books. They may be unable to afford essential medication. They are building up huge debts, with the threat of eviction hanging over them for when the current ban is lifted. It is hard to imagine how a breadwinner for such a family could comply with self-isolation if they

or a family member falls ill, or following contact from Track and Trace. Quite apart from the effects on the individuals concerned, the public health consequences are obvious.

Case Studies

No Recourse to Public Funds (NRPF) - Covid19 bereaved spouse of British healthcare worker

This family consisted of a British healthcare worker and his wife from a non-EEA country, with Leave to Remain as a spouse endorsed NRPF, and their 11-year-old British son. The father died in April 2020 of Covid-19. The widow then had no access to his bank account and no access to any benefits apart from Bereavement Support Payments. Child Benefit (which had been paid to the father) stopped. Bereaved spouses with this type of visa are immediately eligible to apply for Indefinite Leave to Remain (ILR) but the cost is about £2400 and a decision can often take 6 months or more, during which time the NRPF condition remains. There seemed to be good news as the Home Office announced that bereaved families of healthcare workers who die of Covid-19 would get immediate ILR with no fee. We helped the widow apply for this on 15/05/2020, before it was even publicly announced. 6 weeks later, we have had no response despite a follow-up email and despite her MP having contacted the Home Office about it twice. The family was referred to Children's Services who have made the statutory award of £75 per week under Section 17 of the Children Act. As Bereavement Payments have not yet started, this is her only income and she is building up arrears of rent, Council Tax and utility bills and struggling to support her son. We have helped her apply for free school meal vouchers for the boy and supplied food vouchers.

No Recourse to Public Funds (NRPF) - bereaved spouse but no spouse visa

This family consisted of a British man with a long-term health condition, his wife from a non-EEA country who is a healthcare worker and a British child. In this case the wife was not on a spouse visa (which they had been unable to afford) but on a work visa which expires in September 2020 and also carries the NRPF condition. The father died of non-Covid-19 causes leaving the widow with no access to benefits including Child Benefit. In her case there is no entitlement to an immediate ILR application (even with a fee) as she is not on a spouse visa and is not covered by the special provision as he was not a healthcare worker who died of Covid-19. She is struggling to pay the cost of the funeral (Help with Funeral Costs being dependent on being a benefit claimant) and with rent and daily living and so is forced to return to work as soon as possible despite bereavement. She should be able to benefit from the free one-year extension of work visas for NHS workers, but after that she will have to pay for Further Leave to Remain once before applying for ILR. During all that time she will have NRPF.

No Recourse to Public Funds – Leave to Remain on Human Rights grounds

This is a single parent of a young British child who is divorced from her British husband following domestic violence. She is from a non-EEA country and has Leave to Remain on the grounds of her human rights to Private and Family life, with the usual condition of NRPF. She was a keyworker in a dementia home and so her child was able to continue at primary school during the Covid-19 lockdown. However, the after-school childcare arrangement of her mother picking up the child from school had to cease under the rules of isolation of households and older people avoiding contact with grandchildren. Her employers would not let her change her hours to fit in with school, nor would they agree to furlough, so she lost her job. She is receiving contribution-based Jobseekers Allowance (c-JSA) but has no entitlement to Housing Benefit or Council Tax Support. She is struggling to support herself and her child with food, essentials and feeding the gas and electricity meters and is building up rent and Council Tax bills. No-one can be evicted for rent arrears at present due to the Covid-19 provisions but we fear what may happen once these provisions are lifted.

No Recourse to Public Funds – Domestic violence

A few years ago, a client came to us bearing a head injury, which was not obvious until we took her into an interview room. She had sat quietly in a crowded waiting room most of the day and it was now a Friday afternoon. She had little English, but through a telephone interpreter we found she was a non-EEA national married to a British national, with a spouse visa with NRPF. He had become increasingly violent and had that morning beaten her, leaving her with a bleeding head wound. She fled the house and went to her GP who told her to go straight to A&E. However, she had come to us instead as her first priority was to find somewhere to stay. She had no children. She had not been to the police and was insistent she did not want the police involved. We spent some hours phoning Domestic Abuse charities and refuges throughout the North West, but when they heard she had NRPF, none could offer her accommodation even on an emergency basis. She did not want referral to Social Services and, as she had no children, we did not make a referral. In the end, we sent her to A&E in a taxi and, with her permission, alerted the hospital Social Worker.

No Recourse to Public Funds – Self-employment and work visas

This family came to the UK in October 2019 and consists of a mother with a visa allowing her to set up a business and her husband with a dependant visa allowing him to work in the UK. They have 2 children, one in Year 3 of primary school. A condition of granting the visa is that proof of enough savings to support themselves for 6 months. The mother set up the business in January 2020, registering with HMRC, and the father found a job in a small café. With the lockdown their plans failed. The mother got absolutely no clients for her new business and the father lost his job when the café closed down. There was no option of furlough for him. He had not worked long enough to be entitled to c-JSA. The mother was not entitled to the Self-employment Income Support Scheme as she had not been trading in 2018-19. She was not entitled to the Coronavirus Local Authority Discretionary Grants Fund as her business is run from home so she pays no Business Rates. They were not entitled to free school meal vouchers as they do not come under any of the 4 categories of people with NRPF for whom there is a Covid-19 exception. They were not able to return to their home country. They tried to find a way but there were no flights and their home country was

banning entry because of Covid-19. Their savings had run out after 6 months in the UK and they were unable to pay the rent or bills and were reliant on food vouchers.

No current Leave to Remain – appeal pending on Human rights application

This is a couple from a non-EEA country whose work visas had expired so they have no current leave to remain in the UK. They have a young child born in the UK. They applied for Leave to Remain on the human rights grounds of Private and Family Life. This was refused but they won on appeal at a First Tier Immigration Tribunal in January 2020. However, the Home Office has appealed to the High Court and this appeal is pending, and there is no support available as it is not an asylum case. They have no entitlement to any benefits at all while they have no currently leave to remain. They have been supported entirely by friends. However, this source of support disappeared with Covid-19 as the friends lost their jobs. They have been referred to Children's Services (outside Liverpool) with a request they be supported under Section 17 of the Children Act.

Returning Residents - failing Habitual Residence Test

This is a couple consisting of a British man, post-working age and with severe medical conditions, who had been living abroad for decades in a non-EEA country with a wife from that country, who is also unwell. They had fallen on very hard times having been swindled out of most of their money and decided to return to live in the UK. Because of the urgency of the severity of his condition, and lack of money, the wife got herself a visitor visa and they flew to the UK. At the airport most of their cash was stolen from them. They immediately tried to find social housing and apply for benefits, only to find they were entitled to neither as the husband failed the habitual residence test. The wife needed urgently to regularise her immigration status. However, applications for a spouse visa are not allowed from within the UK but both she and her husband were too sick to leave the country. They could not afford a solicitor and this issue does not fall under legal aid.

EEA national – failing to register as unemployed after redundancy

This client had worked continuously from 2016 to mid-2019 when he was made redundant. If he had then immediately claimed Universal Credit, he would have retained his worker status, thereby continuing to have R2R. Unfortunately, he delayed some months before claiming UC which meant there was a gap in his worker status and he is refused benefits as being a jobseeker is not a form of “qualified person” acceptable for Universal Credit. He is at risk of losing his home once the Coronavirus ban on evictions ends and attributes his current serious illness to the stress this has caused. We find that EEA migrants often hold back from claiming benefits on losing their jobs (contrary to populist myths) as they think they are doing the right thing by avoiding being a burden on the state. Unfortunately, the consequence is often that they are punished by losing their Right to Reside.

EEA national – serious illness

This client worked for several months in the UK before falling seriously ill and becoming unable to work. He managed to do some self-employed work for a time but does not have any records of this. He collapsed some months later and is now in and out of hospital but is failing to pass the R2R test as he did not claim benefits immediately on falling ill and now cannot prove that was the reason. He cannot prove he retains worker status from his period of self-employment.

EEA national- Estrangement from Parents

This client is a single mother from an Eastern EU country who has been in the UK since childhood. She has a young child. She came to us having been refused Universal Credit as she was deemed not have R2R, and had a Notice Seeking Possession as she was in rent arrears. She had not yet been granted Settled Status under the EUSS as she had no current passport from her country of origin and was struggling to get one from her embassy. Without this ID, the EUSS is a harder and longer process involving a paper application rather than the usual app and online method. Instead we tried to help her establish her PR, which requires proof of R2R for 5 continuous years. For some of those years she was a child, and so her R2R for that period depended on her parents'

activities in the UK at the time. Her parents both returned to the country of origin some years ago and she was out of touch. To make it even harder, for some of the critical years when her parents worked in the UK she needed proof of their registration with the Worker Registration Scheme, which applied to people from A8 countries of the EU until 2011. Without that, their work could not be counted. Until she could prove this, she had no Universal Credit and therefore no ability to support herself and the child or pay the rent.

EEA national – pregnancy and childcare

This client had been in the UK for 6 years and was working until she fell ill with pregnancy complications. Her partner was threatening to her and financial support from him stopped. She was unable to go back to work as she had no alternative childcare. Unfortunately, she did not apply for Universal Credit at this point, again thinking she was doing the right thing. She could have proved her R2R at that point, retaining her worker status under a rule relating to childbirth. By the time she tried to claim she had lost her worker status and was refused. She was near destitution, struggling to support herself and the child and with considerable debt. She was initially supported by a family member but this stopped when they lost their job. She did not want to try to get maintenance payments from the father as she wanted no contact due to his aggressive behaviour. She had lived in the UK over 5 years but did not have Permanent Residence as she had not continuously had worker or any other qualifying status during all that time. Fortunately, the EU Settlement Scheme came into being just at this time, which for the first time allowed EEA nationals who had lived in the UK for 5 years, regardless of their activities, to gain Settled Status. We managed to get proof of her residence throughout the 5 years, she got Settled Status and, with it, full rights to benefits. If she had not retained the evidence to prove this Settled Status, she would still be destitute.

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